

expert, professional, friendly...

j&p

judge&priestley  
SOLICITORS • EST. 1889

## Legally Speaking - Judge & Priestley's Quarterly Legal Update for Commercial Clients

SUMMER  
2016



INVESTOR IN PEOPLE

**Lexcel**  
Practice Management Standard  
Law Society Accredited

Welcome to J & P's latest newsletter, specially designed to keep you up to date with all the latest legal developments affecting you and your business.

Got something on your mind? ... give us a call or email us.

For more than 125 years we have been providing clients with expert and professional legal advice. We understand the value of a personal and friendly service.

Judge & Priestley  
LLP  
Justin House  
6 West Street  
Bromley  
Kent BR1 1JN

# Helping businesses grow...but there's a catch

The government has announced a range of proposals to encourage innovation and to help businesses grow, but the changes could also see firms facing more competition from former employees.

One of the proposals aims to prevent red tape from stifling entrepreneurship. This would involve removing or reducing the effectiveness of non-compete clauses in employment contracts.

These are clauses that can be used to prevent an employee who leaves a company from working for a rival or setting up in competition for a set period, typically about six months.

A government statement says: "The clauses are only enforceable in a court of law if they protect a legitimate interest and are reasonable.

"However, there have been suggestions that they can hinder start-ups from hiring the best and brightest talent, so the government is asking for views from individuals and employers on whether this type of practice is acting as a barrier to innovation and employment."

The government is also seeking views on how it can encourage more innovation. It's conducting a survey asking about the following key areas:



### Making regulation work

How can the government make sure that regulation doesn't stifle businesses and instead drives innovation? How can we continue to be a world leader in open government and transparency?

### Access to finance

What difficulties do businesses encounter in seeking finance for innovation and how can the government help unlock these?

### Government procurement

With the public sector spending around £240 billion a year, there is huge potential to invest in businesses offering new and innovative services. How do we make sure that government procurement practices reflect this?

### Supporting new businesses

Challenger businesses pursuing new technologies and business models are

already embracing innovation. How can we make sure they aren't stifled by red tape and regulation?

### Intellectual Property (IP)

Ministers want to hear views from business on measures that would help ensure that the benefits of British research, invention and creativity are felt strongly within our economy and fuel the development of innovation over the coming 10 years.

Business Secretary Sajid Javid said: "I want to see more enterprising start-ups and greater productivity in a free and fair marketplace, by making sure we take action to break down any barriers that are curbing innovation and entrepreneurship."

For more details contact  
**Neil Cuffe** - 020 8290 7405  
ncuffe@judge-priestley.co.uk

## Landlord loses control of properties over repair failures

A landlord has lost control of his properties due to his failure to carry out repairs properly.

The case involved a large building comprising of a number of flats and one commercial unit. The tenants considered that the property was in serious disrepair, causing safety issues. When the landlord failed to bring the building up to the required standard, they applied for a management order under the Landlord and Tenant Act.

The First-Tier Tribunal found in their favour. It criticised the landlord and

found that it had failed to comply with its responsibilities.

The tribunal imposed a management order on the premises. The order gave the new manager the power to collect rent from the commercial tenant and collect a portion of the service charge directly from the landlord.

The landlord appealed, arguing that the terms of the tribunal's order went further than was permissible and amounted to an error of law.

However, the Upper Tribunal upheld the decision. It said the tribunal

had been entitled to remove all management functions from the landlord and to allow the new manager to collect rent.

It added that even if there had been an error of law by the tribunal, the order would not have been set aside because the landlord could not be relied upon to manage the property and had resorted to litigation to retaliate against the tenants by way of abuse of process.

For more details contact  
**Nitika Singh** - 0208 290 7347  
nsingh@judge-priestley.co.uk

# Companies must state who has significant control

Companies in the UK must now have a register of 'People with Significant Control' to provide greater transparency for consumers and other businesses.

The register should include basic information about who owns or controls the company, including their name, month and year of birth, nationality, and details of their interest in the business.

A person of significant control is defined as someone who holds more than 25% of shares or voting rights in a company, or who has the right to appoint or remove the majority of the board of directors. The regulation came into effect on 6 April under the Small Business, Enterprise and Employment Act.

From 30 June this year, UK companies (except listed companies) and limited



liability partnerships (LLPs) will need to declare this information when issuing their annual statement to Companies House.

The Business Minister, Baroness Neville-Rolfe, said: "Companies that

disguise who owns or controls them are not playing by the rules and have something to hide.

"This register, the first of its kind in the world, will help tackle abuse of corporate entities. This is part of our commitment to creating an environment of trust and accountability for business.

"Some of the features of the company structure which make it good for business also make it attractive to criminals.

"Companies can be misused to facilitate a range of criminal activities from money laundering to tax evasion."

For more details contact  
**Neil Cuffe** - 020 8290 7405  
ncuffe@judge-priestley.co.uk

## Launch of our new Website

We are delighted to announce the launch of our new website [www.judge-priestley.co.uk](http://www.judge-priestley.co.uk).

The new website has been developed with an innovative design and improved navigation that will enhance the online experience for our clients. It offers improved features and user-friendly navigation with quicker access to information.

We have added more detailed information about our key services reflecting the growth of our practice, including:

- Property including leasehold and housing management
- Services for Individuals
- Services for Businesses
- Debt Recovery

Clients will be able to complete online forms and submit enquiries. Our new website has a responsive layout for browsing on a smart phone or tablet.

We will continue to post legal and commercial updates as well as highlight our staff efforts that contribute towards our



[send an email](#) ☎ 020 8290 0333



commitment to community. Please visit our new look website [www.judge-priestley.co.uk](http://www.judge-priestley.co.uk), we would be delighted to hear any feedback or comments. Please contact Nita Newsome on 0208 290 7425 or email [nnewsome@judge-priestley.co.uk](mailto:nnewsome@judge-priestley.co.uk).

## Judge & Priestley Solicitors receive ISO27001 Certification

Judge & Priestley have recently been certified the ISO27001 IT security standard following an assessment by an independent body. The certification ensures that company information is secured by providing a tailored system and framework which is continually

maintained & improved to keep up with new threats.

Compliance with ISO27001 certification is proof of independent

verification that Judge & Priestley's Information Security Management System meets the international standard.

Managing Partner, Steven Taylor said that he "was delighted that Judge & Priestley has been certified ISO27001, the standard provides our clients with the reassurance that we are securely dealing with their information" and added "Information security and IT is a top priority of the firm, and as we invest more in our IT systems we must ensure that our systems are 100% secure from any threats including the increase in cyber threats. Our IT infrastructure and policies have met the requirements

from the assessment which shows that we have the necessary management and control framework in place and we will continue to evolve to meet the ever changing IT environment."

Mark Carey, IT Manager at Judge & Priestley said "we are pleased to have attained this certification as it strengthens the trust between our customers and Judge & Priestley. It proves that we have a systematic approach to managing sensitive information so that it remains secure.

This is through applying a risk management process that includes people, processes and IT systems".



# Judge & Priestley LLP Announces Partner Promotions Following ABS Structure

Following the firm becoming licensed by the Solicitors Regulation Authority as an Alternative Business Structure (ABS) on 1 May, Judge & Priestley solicitors are pleased to announce two partner promotions, bringing the number of partners to 13.

Robert Davis, who joined the firm in 1988 and Mark Younger in 1990, work within the well-established debt recovery division – JP Credit Solutions. The department provides debt recovery solutions to all businesses large and small including pre litigation, claims and all aspects of enforcement.

Under their management and strong track record, the department has significantly grown from a team of 29 in 1990 to over 100 staff in 2016 and are now one of the leaders in nationwide debt recovery. Today the department deals with a number of leading insurance companies in the recovery of their subrogated losses as well as local authorities, utility companies and SMEs.

Mark Oakley, Head of JP Credit Solutions said “We are delighted to announce the first promotions of non-solicitor partners. This was one of the main reasons we applied for the ABS licence so that talented people like Mark and Robert can be promoted into the partnership to continue to help with the growth of our firm and drive the business forward.”

The Bromley firm of solicitors has been established for over 125 years, and offers a full-range of legal services to individuals, businesses and organisations including local authorities and housing associations.

Robert Davis added “I’m delighted to have been given this opportunity. Judge & Priestley is a well-established and widely recognised firm and I’m honoured to have been part of its history and excited to be a part of its future.”



Left to Right: Mark Oakley Head of JP Credit Solutions with Rachel Addai, Partner and Newly Promoted Robert Davis and Mark Younger.

Mark Younger said “I am pleased to have been given the opportunity to continue my career at Judge & Priestley as a Partner in the firm. I will, as always continue to provide the best quality of service to the firm and its clients.”

## The sterling effect on commercial property – will foreign investors rush in?

Sterling teetered through the first few days of the new Brexit environment and, although stock markets are eventually showing some resilience, currency values are still a national obsession.

In the run up to the referendum we saw significant press coverage of so called Brexit clauses being used to afford comfort to buyers in commercial property deals. Reuters was not alone in reporting that commercial property investors were adding Brexit clauses to their contracts so that buyers could abandon real estate contracts if the EU referendum resulted in a Brexit vote.

On the other side of the equation, sellers were also protecting themselves by including clauses stating that Brexit would not be enough to terminate a contract. We also saw money back guarantees being used in the event that Brexit occurred and pricing took a hit.



As we wait to find out the value of these measures and the extent to which they have been invoked in the days and weeks following the referendum, initial sentiment in the UK commercial property markets has been largely negative, with high demand to sell investments in the leading UK based property funds. Indeed the charge for the exit has been so severe, given the relatively illiquid nature of commercial property as an

investment vehicle, that trading has been suspended in three major UK property funds managed by M&G, Aviva and Standard Life.

There is always a contrarian view however and arguably the current weakness of Sterling makes UK property better value for foreign investors than it has been for a considerable time. So a new clutch of questions are being asked by some. Will international property investors actually come into the UK market, seeking out the country's property crown jewels?

Will a deflated currency ultimately prompt additional real estate investment by overseas investors? Is there pent up overseas demand that will seek to benefit from the uncertainty created by the “leave” vote and the power vacuum that has followed?

These are certainly interesting times for commercial real estate in the UK.

# New regulations affecting landlords now in force

Several new regulations affecting landlords have now come into force. These are some of the most significant:

## Requesting energy improvements

Tenants can now request consent from their landlord to install energy efficiency improvements in the property they rent.

The landlord cannot unreasonably refuse consent, as long as the requested improvement is one of the energy efficiency measures contained in the Schedule to the Green Deal (Qualifying Energy Improvements) Order 2012, or alternatively, if it is a measure required to connect to the gas network.

The tenant must also be able to secure funding at no cost to the landlord. This could be from a government or local authority grant, or from the tenant involved.



## Stamp Duty Land Tax

The most costly change for landlords hoping to increase their portfolio is the rise in Stamp Duty Land Tax.

A surcharge of 3% now applies for buy to let properties and second homes. The

Association of Residential Letting Agents believes this could result in an increase in rents and less money being spent on property maintenance.

## Wear and Tear Allowance

Under the previous arrangement, landlords were able to reduce their tax liability by claiming a 10% Wear and Tear Allowance even if they didn't replace any furnishings in their properties.

Now they can only claim the allowance when replacements are made and costs are incurred.

All the changes came into effect on 1 April.

For more details contact

**Nitika Singh** - 0208 290 7347

[nsingh@judge-priestley.co.uk](mailto:nsingh@judge-priestley.co.uk)

## Woman on maternity leave 'not discriminated against'

The Employment Appeal Tribunal (EAT) has held that a company's childcare voucher scheme did not discriminate against a woman on maternity leave.

The case involved a company that operated a scheme that enabled employees to forego part of their salary in exchange for childcare vouchers.

Entry to the scheme was conditional on employees accepting that membership during maternity leave would be suspended if they were in receipt of statutory maternity pay but no other pay. An employee refused to accept that term, as she believed it to be discriminatory.



## Employment Law

The tribunal held that those on maternity leave were entitled to non-pay benefits, and that the employer had acted unlawfully by requiring employees to forego such benefits as a condition of joining the scheme.

The EAT has now overturned that decision. It gave various reasons for its ruling, including the fact that the law allowed payment of a lower salary to those on maternity leave. It was not discrimination, nor contrary to the regulations. Where part of

the employee's wage was used by arrangement to pay for childcare, it was difficult to see why she should be entitled not only to the minimum maternity pay but also to the amount spent on childcare.

To require the continued provision of vouchers during maternity leave would produce a windfall benefit for an employee but would also impose a cost upon employers and discourage them from offering such a scheme. Parliament could not have intended that consequence.

For more details contact

**Paul Stevens** - 020 8290 7422

[pstevens@judge-priestley.co.uk](mailto:pstevens@judge-priestley.co.uk)



judge&priestley  
SOLICITORS - EST. 1889

Lexcel  
Practice Management Standard  
Law Society Accredited



INVESTOR IN PEOPLE

## Services

- Buying and Selling Businesses
- Contracts
- Debt Recovery
- Developments
- Dispute Resolution
- Employment
- Property

## Meet the team



Mark Oakley



Pam Bachu



Rachel Addai



Lucy Rudd



Neil Cuffe



Steve Taylor



Paul Stevens



Nitika Singh

For further information T. 020 8290 0333 F. 020 8464 3332

Justin House, 6 West Street, Bromley, Kent BR1 1JN

E. [info@judge-priestley.co.uk](mailto:info@judge-priestley.co.uk)

[www.judge-priestley.co.uk](http://www.judge-priestley.co.uk)

This newsletter is intended merely to alert readers to legal developments as they arise. The articles are not intended to be a definitive analysis of current law and professional legal advice should always be taken before pursuing any course of action.

Authorised and regulated by the Solicitors Regulation Authority